

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

SUPPORT FOR CLAIM AMENDMENTS

Support for the amendments to the claims can be found in the drawings as originally filed, for example, in FIGS. 1a-3 and in the specification as originally filed, for example, on page 5, line 10 through page 9, line 16, and on page 10, line 7 through page 12, line 4. As such no new matter has been added.

OBJECTION TO THE ABSTRACT

The Office Action appears to take a position that the term "comprising" is not proper in an abstract.<sup>1</sup> Although Applicant's representative does not necessarily agree with such a position,<sup>2</sup> in an effort to advance the prosecution of this application, the Abstract of the Disclosure has been amended in line with the format which the Office Action indicated would be acceptable.<sup>3</sup> As such, the objection to the Abstract has been

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<sup>1</sup> See lines 1-2 of the Remarks section on page 3 of the Office Action.

<sup>2</sup> For example, the USPTO patent full-text database indicates that 292,981 patents issued since 1976 include the term "comprising" in their abstract.

<sup>3</sup> See lines 2-4 of the Remarks section on page 3 of the Office Action.

obviated by appropriate amendment and should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The rejection of claims 1-20 under 35 U.S.C. §112, second paragraph, has been obviated, in part, by appropriate amendment and is, in part, respectfully traversed. As such, the rejection should be withdrawn. Specifically, with respect to claims 1, 19 and 20, Applicant's representative respectfully traverses the conclusory statements that "Footprint variations cannot be eliminated where there is first no prior recitation of their creation," "Layout variations cannot be eliminated where there is no prior recitation of their creation," and "Layout and footprint changes cannot be reduced where there is first nor prior recitation of their creation" (see page 3, lines 1-10 of the Office Action). The Office Action does not provide any objective evidence, statutory citation or convincing line of reasoning supporting such conclusions. Furthermore, the Office Action does not meet the Office's burden of factually establishing that one of ordinary skill in the pertinent art, when reading the claims in light of the specification, would not be able to reasonably ascertain the metes and bounds of the present invention. As such, the presently claimed invention is fully patentable under 35 U.S.C. §112, second paragraph, and the rejection should be withdrawn.

SUMMARY OF TELEPHONE INTERVIEWS

In a telephone interview on February 25, 2004 between Examiner Thompson and Applicant's representative, Christopher Maiorana, proposals to overcome the rejection under 35 U.S.C. §112, second paragraph, were discussed. A verbal agreement was reached that Examiner Thompson would review a proposed amendment after final and provide feedback (see Interview Summary, paper no. 6). The proposed claim amendment was submitted to Examiner Thompson on February 26, 2004. On February 27, 2004, Examiner Thompson stated via an e-mail that the proposed amendment after final would not place the application in condition for allowance and, therefore, if submitted would not be entered. In a reply to Examiner Thompson's e-mail Applicant's representative, Christopher Maiorana, inquired whether the proposed amendment reflected what had been discussed. In an e-mail dated February 27, 2004 Examiner Thompson stated "Partially." Examiner Thompson further wrote "There is more work to be done."

In a telephone interview on March 4, 2004, the Examiner's Supervisor Matthew Smith and Applicant's representative, Robert Miller, discussed whether the "brief" feedback was appropriate and what the further work to be done included. Applicant's representative pointed out that the previous amendment had involved subject matter indicated to be allowable (see paragraph nos. 20 and 21 on page 5 of the Office Action dated July 14, 2003 and page 8,

lines 5-8 of the Amendment filed October 2, 2003). Examiner Smith agreed to call Applicant's representative after reviewing the file.

In an e-mail dated March 5, 2004 Examiner Thompson instructed Applicant's representative to proceed with officially filing the proposed response and stated that the response would be entered upon submission. On March 5, 2004 Applicant's representative, Robert Miller, called Examiner Smith to inquire whether the message from Examiner Thompson meant Examiner Smith was not going to review the file. It was agreed that an Amendment After Final would be submitted in an effort to address Examiner Thompson's concerns and that the Amendment After Final would be entered. Examiner Smith further stated that, if the claims continued to be rejected, a non-final Office Action would be sent specifically explaining the basis of any rejections.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative, Robert Miller, should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office  
Account No. 50-0541.

Respectfully submitted,

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